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**THIS SUBMISSION IS BEING MADE PURSUANT TO FEDERAL RULE OF
EVIDENCE 410 IN CONTEMPLATION OF SETTLEMENT AND MAY NOT BE
OTHERWISE DISCLOSED OR USED IN ANY PROCEEDING.**

March 20, 1998

HAND DELIVERED

Lois G. Lerner, Esquire
Assistant General Counsel for Enforcement
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20468

Per MUR358

Re: Future Tech International, Inc.

Dear Ms. Lerner:

This letter follows up on our telephone discussion in December regarding Future Tech International, Inc.'s ("FTI") November 12, 1997, written presentation to the Federal Election Commission regarding contributions by FTI and its officers and employees. In that telephone call, you asked us to further explain and document the bases for our presentation's conclusion that FTI's "soft money" activity complied with the letter and spirit of applicable federal law. The following letter sets forth the bases for the presentation's conclusion, which we have modified modestly (as I mentioned to you on the telephone) to account for additional information that has come to our attention.

Before turning to the issues presented, we first should clarify our use of the term "soft money" in the November 12 presentation. The presentation considered "soft money" to be things of value provided to the non-federal account of a federal,

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state, or local party committee or to a state or local candidate or his or her political committee.¹

As we have explained, FTI's presentation was based on an internal review of campaign and political contributions by FTI and its officers and employees. FTI's counsel, Winston & Strawn, and subsequently Brand, Lowell & Ryan, counsel to FTI's founder, Mr. Mark Jimenez, conducted that independent review. As FTI's November 12 presentation explained, Winston & Strawn undertook the investigation in response to media allegations regarding FTI and set against the backdrop of allegations relating to 1996 soft money practices more generally. More specifically, allegations had been made in the press and the political process that soft money contributions to the Democratic National Committee ("DNC") may be linked to foreign sources of funding.²

The internal review entailed interviews with company officers and those individuals who made individual federal and state contributions. The independent

¹ In addition to soft and hard (federal) money contributions, our November 12 submission discussed FTI's donation of funds to organizations that might be seen as "political," but which donations do not represent the provision of a thing of value in connection with a federal, state, or local election (e.g., a contribution to the White House Endowment or the President's Birthplace Foundation). Such activity is outside the broadest parameters of the Federal Election Campaign Act's ("FECA") purview (and thus the Commission's jurisdiction), so it is not addressed in this letter. Nevertheless, the reviews which have taken place confirm that such conduct was proper.

² Our investigation also addressed whether any of FTI's soft or hard money activity was conducted for, or because of, an official act. Such an issue is outside the purview of the FECA, so we will not address it at length in this submission, other than to note that the internal review addressed that question by examining, among other things, whether FTI objectively had need for any official act, or for that matter, had any matter pending before any agency. As our presentation explained, however, FTI's operations are structured to limit the amount of government forbearance that is necessary for FTI to conduct business. FTI is not, and never has been, a federal contractor. Nor was FTI a contractor in any foreign country. FTI's products are general distribution goods that do not require U.S. Government approval prior to exportation. Moreover, by selling its products F.O.B. Miami, FTI's concern about customs and other related issues is very limited. FTI's purchasers address such import/export issues. Finally, our presentation explained that FTI is resistant to political vagaries in any single South American or Latin American country because of the literally unprecedented diversification of its sales activities amongst all of these countries.

reviewers were also provided access to whatever company records they asked to review.

We will turn first to FTI's soft money contributions to DNC non-federal accounts. These contributions (according to DNC records, 8 in all from May, 1993 to September, 1996) represented the bulk of FTI's soft money activity and the bulk of the company's political activity altogether. We attach as Exhibit 1 a list of FTI's non-federal contributions to the DNC. (One contribution of \$5,000 on May 10, 1993, appears in the DNC's records, but not FTI's. We include the contribution to ensure completeness.) Our presentation concluded that FTI's DNC contributions were proper. Our determination was based on consideration of the following three factors:

First, we examined whether FTI used funds generated from U.S. operations to make the non-federal DNC contributions. The internal review concluded that FTI is a U.S. company and that it used funds generated from its U.S. operations to make these contributions. As we explained in our presentation, FTI conducts its business in the United States. More specifically, it sells its products F.O.B. Miami, so its actual sales transactions are consummated in the United States. See Uniform Commercial Code § 2-319(1)(title to goods generally passes from seller to buyer at FOB location). Thus, the FTI situation is the diametric opposite of the facts in MUR 2892, *In re: Royal Hawaii Country Club, et al.*, wherein Hawaiian corporations without any tangible U.S. revenues made non-federal contributions using assets that were derived from non-U.S. sources of revenue.

Second, the internal review sought to determine whether any person involved in any decision to make a contribution to the DNC was a "foreign national," as the FECA defines that term (*i.e.*, a person who was not a citizen or did not have permanent resident status). See 11 C.F.R. § 110.4(a)(3).³ To answer this question, the internal review confirmed that all of the persons who were involved in decision-making regarding the FTI DNC contributions were either citizens or had their "green cards." In the course of re-reviewing this issue, we now have to modify our conclusion. Specifically, we recently discovered that FTI made four contributions to the DNC (two \$5,000 contributions on May 10, 1993, and two \$50,000 contributions on March 24, 1994) before Mr. Mark Jimenez, FTI's founder, obtained his "green card" in July of 1994.

³ We note that this requirement regarding decision-making involved in a contribution from a U.S. entity with income from U.S. operations is not self-evident. It is not contained in the FECA itself, but was derived from advisory opinions that the Commission codified in the above-cited regulation.

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During that period, however, the other owner and other individuals at the highest echelon of FTI management were U.S. citizens.

Third, it would be relevant whether the DNC actually used the funds that it raised as non-federal for non-federal purposes. Our internal investigation would not reveal the answer to this question;⁴ however, at the time we made the presentation, we did know, objectively, that the DNC's attorneys and independent public accounting firm auditors had conducted a full-scale investigation of the DNC's 1995-96 political activity. Exhibit 2 hereto represents the survey from the DNC's auditor, Ernst & Young, regarding FTI's non-federal contributions. Newsclips have revealed that one issue considered in such DNC review was whether the DNC actually deposited non-federal contributions into its non-federal accounts. Following such investigation, the DNC did **not** refund any FTI "soft money" contribution. Such failure to refund led us to conclude that the DNC properly deposited the contributions in question into its non-federal accounts, and concluded these contributions were otherwise proper.

As additional confirmation for our conclusion, we note that it would have been unlikely that FTI's non-federal contributions could have been deposited in a DNC federal account by mistake. The contributions were made by a corporation and were generally in amounts larger than any person could permissibly contribute to a DNC federal account. (By contrast, it appears that most of the DNC contributions that were mistakenly deposited in federal accounts were from **individuals** who had already "maxed out" to the DNC federal account, not from a corporation that could not have contributed to a federal account in the first place.) It is thus not likely that any FTI DNC non-federal contribution would have been improperly processed and deposited into a federal account, as an individual contribution might have been.

FTI also made contributions to the Arkansas, New Jersey, and Florida State Democratic Party committees. In addition, an FTI contribution to the Massachusetts Democratic Party was refunded. Such contributions were made at a time when FTI clearly had sufficient funds from U.S. operations to make the contributions. Moreover, these contributions were made at times when the contribution decision-makers were either U.S. citizens or permanent resident aliens. We attach as Exhibit 3 a schedule of these contributions.

Finally, an additional matter, which we had brought to your attention orally, should be addressed in this supplemental submission. In 1996, FTI officers and employees contributed to Messrs. Arthur Teele and Maurice Ferre, both of whom were

⁴ Whether the DNC, unknown to FTI, used the funds improperly would not be an issue for FTI. However, out of an abundance of caution, we looked at this issue as well.

candidates in the Metro Dade, Florida mayoralty race. Our internal investigation revealed that these contributions were reimbursed through an account maintained at FTI in the name of Mr. Jimenez. A schedule of the contributions made to Messrs. Teele and Ferre are included in Exhibit 4, discussed herein. Florida law prohibits the making of a contribution in the name of another (Fla. Stat. Ann. § 106.08(5)), albeit it permits a corporation to make a \$500 per election contribution. Fla. Stat. Ann § 106.08(1)(a). Thus, FTI's reimbursement of these contributions violated, albeit unknowingly, Florida law. Florida law criminalizes only knowing and willful violations of these laws. Fla. Stat. Ann. § 106.08(6). In accordance with FTI's voluntary reporting policy, the company filed a complaint against itself with the Florida Election Commission on November 25, 1997, and an investigation was then commenced. A tentative agreement resolving these state election issues has been made, and we expect final approval in the next month or so. A copy of that complaint is attached hereto as Exhibit 4.

In reviewing the citizenship status of the nominal contributors to Messrs. Teele and Ferre listed in Exhibit 4, we discovered that Messrs. Raymund dos Remedios and Alvaro Lozano were admitted to the United States on H-1 work visas and Mr. Marcel Crespo was admitted as an E-2 treaty investor at the times their Florida state contributions to Messrs. Teele or Ferre were made. These H-1 and E-2 visas do not, however, accord their holder status as lawfully admitted for permanent residence. These nominal contributors thus appear to have been "foreign nationals" as that term is used in 11 C.F.R. § 110.4(a)(4)(ii). Their contributions would thus appear to fall within the purview of the FECA and the Commission if such individuals could be deemed actual contributors to Mr. Teele's or Mr. Ferre's mayoralty campaign.⁵ In the interests of full disclosure, however, we are bringing this information to the Commission's attention.⁶ Any such violation by Messrs. dos Remedios, Crespo, or Lozano (totaling \$3,500) was inadvertent in any event.

⁵ Cf. Federal Election Commission Advisory Opinions 1984-52 and 1989-5 (contribution should generally be refunded to its original source). In addition, we note that a question pendes regarding Commission jurisdiction over state and local contribution activity. We will reserve this issue in view of our effort to resolve this matter.

⁶ We also note that, as explained in FTI's proffer to the Federal Election Commission, Mr. Marcel Crespo made two contributions to federal candidates (Ted Kennedy for Senate, 2/7/94; Roger H. Bedford for Senate, 9/25/96), and Mr. Raymund dos Remedios made a contribution to the Anne Henry for Congress campaign (10/21/96), at times when neither individual had a "green card." In addition, Mr. Rene dos Remedios also made a contribution to the Anne Henry campaign on October 21, 1996, and he is also admitted on an H-1 work visa.

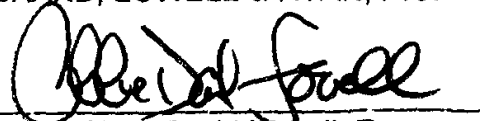
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We hope the foregoing letter responds fully to your request for additional information and look forward to working with the Commission to resolve the issues that FTI has voluntarily reported.

Sincerely,

BRAND, LOWELL & RYAN, P.C.

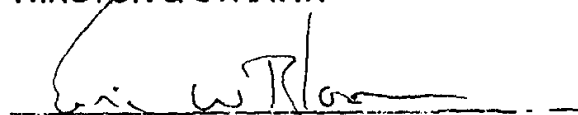
By:



Abbe David Lowell, Esq.
David E. Frulla, Esq.

WINSTON & STRAWN

By:



Eric W. Bloom, Esq.

.ADL/EWB:yab

FTI "SOFT MONEY" CONTRIBUTIONS TO
DEMOCRATIC NATIONAL COMMITTEE

<u>DATE</u>	<u>AMOUNT</u>
May 10, 1993	\$ 5,000
May 10, 1993	5,000 ¹
March 24, 1994	50,000
March 24, 1994	50,000
February 15, 1995	100,000
March 27, 1996	500
April 22, 1996	100,000
September 30, 1996	75,000

¹ This contribution is reflected in DNC records, but not FTI's.

ERNST & YOUNG LLP
 Financial Advisory Services Group
 1225 Connecticut Avenue, N. W.
 Washington, D. C. 20036
 Telephone: (202) 327-5876
 Facsimile: (202) 327-6226

To: Mark Siorez
Future Tech International
3000 N.W. 73rd Avenue
Miami, FL 33122
Fu (305) 599-2040

The accounting firm of Ernst & Young LLP has been retained to confirm certain information about contributions to the Democratic National Committee (the "DNC").

We tried to speak with someone from your company on the telephone, but we either were unable to reach anyone or were asked to send our request for information to the company in writing.

According to the DNC's records, your company's name is:

Future Tech International

and it made the following contribution to the DNC:

Amount:	<u>25,000</u>	<u>100,000</u>	<u>500</u>	<u>100,000</u>	<u>50,000</u>	<u>50,000</u>	<u>5000^(*)</u>	<u>5000^(*)</u>
Date:	<u>9/30/96</u>	<u>4/22/96</u>	<u>3/21/96</u>	<u>2/21/96</u>	<u>3/21/96</u>	<u>3/21/96</u>	<u>5/10/93</u>	<u>5/10/93</u>

Would you please answer the following questions to confirm your contribution and that it is in compliance with federal law:

1. Your name: Leonard J. Keller
2. Your company's name: Future Tech International, Inc.
3. Your title or position: Vice Chairman of the Board of Directors & Secretary
4. Your phone number: (305) 477-6406
5. Is the amount of your company's contribution listed above correct:

X(*) Yes No

(*) The company's records are presently unable to verify one US\$5,000 contribution in 1993 of the two contributions indicated above. The company is continuing to research the 1993 records

FT 052831

EX. 2

6. If it is not correct, what is the correct amount?

See note above.

7. If the address listed above for your company is not correct, please give us your correct address.

7630 N.W. 25th Street, Miami, Florida 33122

8. If this is not where your company has its headquarters, please tell us where the headquarters are:

9. In what state or country is your company incorporated?

Florida

10. Does your company have any parent or related companies located in a foreign country?

 Yes X No

11. If the answer to question 10 is "yes," please give us the name and address of each parent or related company located in a foreign country (use an extra sheet of paper if necessary and attach it to this form):

FT 052832

12. Where did the money come from that was used to make your company's contribution to the DNC (please use an extra sheet of paper if necessary and attach it)?

Earnings from sales of products in Miami, Florida.

13. Can you confirm that all of the money that was used to make this contribution came from earnings or other funds of your company generated in the United States?

X Yes No

14. If you can recall, who was the person who asked or solicited your company to make this contribution?

Contributions were not solicited by anyone or any group of persons.

15. Is there any other information you can give us to help us confirm that the funds for this contribution came from earnings or other funds your company generated in the United States (please use another sheet of paper if necessary and attach it)?
-
-
-

16. If there is anyone else we should contact to help us learn more about this contribution, please give us his/her name, address and telephone number (use another sheet of paper if necessary to add more names and addresses):

Mitchell S. Furst

X Yes _____ No

Telephone number: (305) 477-6406

Next time to call: _____

Laura Lew
(202) 327-5876

Mr. Daniel P. Lenz
Ernst & Young LLP
Financial Advisory Services Group
1225 Connecticut Avenue, N. W.
Washington, D. C. 20036
Facsimile: (202) 327-6226

CONFIRMATION

(name)

1-8-97
(date)

FTI "SOFT MONEY" CONTRIBUTIONS TO
STATE DEMOCRATIC PARTY COMMITTEES

<u>PARTY COMMITTEE</u>	<u>DATE</u>	<u>AMOUNT</u>
Arkansas	September 29, 1995	\$20,000
New Jersey	December 5, 1995	25,000
Florida	December 8, 1995	5,000
Massachusetts [REFUNDED]	June 24, 1996	10,000